



2011 Supplement to
the 2005 New Market
Master Plan
As Amended

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2011 Supplement to the 2005 New Market Master Plan as amended

Foreword

This document is an explanatory Supplement to the New Market Master Plan (2005) as amended by the Municipal Growth Element (11/17/2010) and the Water Resources Element (11/17/2010). It has been prepared for two immediate purposes.

First, to answer and clarify past responses to questions raised by several State agencies and some Frederick County residents and organizations as to whether or not the Municipal Growth Element, as a component of a comprehensive plan, satisfies the requirements of State law, specifically Article 66B, §3.05(a)(4)(x). It is our intention to address each of these requirements and how they have been met in this Supplement. It is very important to note that the operative question is whether or not the Article 66B requirements have been met, not whether New Market is “right” in its vision of the future of the community and its surroundings.

Second, and most important, is to present the initial analytical and policy groundwork for a new New Market Master Plan. This opportunity is now available because Frederick County and the Town of New Market have agreed to prepare a Joint Master Plan that will lead to a Joint Planning Agreement cooperatively developed and recognized by both jurisdictions. This process is to be completed in 2011.

This Supplement is in three parts. The first is a directory to where substantive analysis and information meeting the Article 66B requirements may be found in the New Market Master Plan. It also contains material produced after Plan adoption that clarifies and amplifies the Town’s choices regarding growth and change. The second part is an addendum #1 to the Supplement to the Master Plan that contains comments received on the Municipal Growth Element and the Water Resources Element during the review period leading up to Plan adoption. It is dated 10/4/10. Comments include those from various State agencies, the County Department of Planning and Zoning, and members of the public. Each comment is cited, the appropriate language in the draft documents is quoted, New Market Planning Commission discussion is noted, and the Planning Commission decision regarding the comment is described. The third part is an addendum #2 which addresses matters that, according to the Friends of Frederick County, have “not been considered by the Town’s Municipal Growth Element, although required to be considered under State law.”

New Market Master Plan Response to Article 66B Requirements

Because the Municipal Growth Element (MGE) along with the Water Resources Element (WRE) have been adopted as amendments to the 2005 New Market Master Plan and were developed to conform to and be an integral part of the overall Master Plan, information from each of the three components of the Master Plan will be used to respond to the Article 66B questions.

Article 66B, §3.05(a)(4)(x) states “*For a municipal corporation that exercises zoning authority, a Municipal Growth Element, developed in accordance with Subsection (E) of this Section, which shall include consideration of:*”

Requirement 1. Consideration of anticipated future municipal growth areas outside the existing corporate limits of the municipal corporation;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive

Plan suggests consideration of the following items: Land Use Goals, Development Goals, Preservation Goals, and are the plan's goals and visions consistent with long-term policy?

1. Land Use Goals

Regarding Land Use Goals, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article I. Introduction

Section B. The Town's Visions (Page 4) lays out the Town's three fundamental visions. It also points out that "the recommendations and directions contained in this Municipal Growth Element are designed to be flexible and should be periodically reviewed and revised as situations warrant. Implementation of these recommendations should be phased-in over time, based upon community priorities, funding, resources, and market pressures."

Article II. The Growth of New Market

Section C. Issues (Page 9) describes the transportation issues that must be resolved to achieve the desired land use pattern.

Article III. New Market's Land Needs

Section C. Development Beyond Present Town Limits (Pages 14-18) analyzes the type and direction of growth and annexation.

Article VII. Relationship of New Market's Long Term Development Policy to the Vision of its Future Character

Section B. Joint Planning with Frederick County (Pages 34-36) describe a joint planning process with Frederick County that "will allow the participants 1) to shape planning areas based on inherent regional logic and political willingness, and 2) to plan together on issues that need to be examined regionally but to retain local control over implementation and local issues so long as implementation is consistent with an overall multi-jurisdictional framework plan."

The New Market Water Resources Element Addendum contains the following pertinent information and analysis:

Water Resources Goals and Objectives (Page 17) states that the Water Resources Goal for New Market is "To maintain a safe and adequate water supply and adequate capacities for wastewater treatment to serve projected growth; to take steps to protect and restore water quality; and to meet water quality regulatory requirements in the Monocacy River watershed."

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

Achieving the Vision (Pages 20, 24, 45, and 48) contains the four Visions that drive planning in New Market. They are:

“THE FIRST VISION: New Market’s careful management and preservation of its character and historic identity is at the heart of its social and economic vitality -- The highest priority in New Market is the care and protection of its great resource – the character of the town itself. New Market is a community of diversity; the town is a vital, year-round working community with a mixture of ages, income levels, architectural styles, commercial activities, and physical environments. The threads binding these diverse elements together are a quieter, slower town pace, a sense of intimacy produced by its historic buildings, layout, and small scale, and a mix of homes and shops that is the antithesis of modern commercialism. These qualities are enhanced by certain physical characteristics of the town’s layout such as easy walking distances, houses close to the street, sidewalks, vegetation, key focal points of activity, and an identifiable and historic town center.”

THE SECOND VISION: New Market’s prudent guidance of its geographic expansion and population growth has extended the characteristics of unity, variety, order, and balance that typify the community -- New development in and around New Market is imbued with the “New Market character” and is judged with consistent standards of design quality, environmental soundness, and fiscal impact. New Market is very careful in assessing opportunities for expansion and change and its standards are applied to maintain the rural character, environmental soundness, and overall visual quality of the town; to retain its predominant residential character along with its housing styles, walking scale, and history; and to encourage the pride of its residents and its stability and independence as a community.

Overall Strategies #2 (Page 25) describes a process to encourage cooperative and coordinated planning in the New Market region for the benefit of both the town and county.

THE THIRD VISION: New Market’s historic district is a balanced mix of residences and local-serving and regional businesses with a distinctive market niche and historic character -- The most important asset of New Market, its historic district, is readily identifiable in extent, contains a mix of mutually supporting residences, antique businesses, and personal services, and is controlled in architecture, historic quality, and signage. The scale of its buildings is linked to their surroundings and the pedestrian. It is identified as a statewide visitor destination, it is oriented to walkers rather than automobiles and contains a mix of businesses and homes, local and regional operations, and is dominated by locally-owned antique shop and other small businesses.

THE FOURTH VISION: The natural amenities and environmental resources of the New Market region have been protected to be enjoyed by and serve generations to come -- New Market is a community that takes special pride in the appearance of its urban spaces, the quality and the preservation of its natural environment, the carrying capacity of its natural resources and infrastructure, and the retention of its places of special beauty and interest. Its residents always have the time to give attention to the connections between past and present, between the natural and the manmade, and between residents and visitors.

2. Development Goals

Regarding Development Goals, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article I. Introduction

Section B. The Town's Visions (Page 4) describes the fundamentals against which all proposals for change will be measured.

Section B. The Town's Visions (Page 5) also describes “a set of tools for directing future change and managing the pace of that change so that both new and existing communities enjoy the quality of life envisioned by the best of our planning efforts.”

Section B. The Town's Visions (Page 5) further describes a choice “choose to accept orderly, compact, phased, and compatible growth in our Planning Area as our alternative to the suburban sprawl, automobile-dependent development that has consumed hundreds of thousands of acres of valuable land across our country.”

The New Market Water Resources Element Addendum contains the following pertinent information and analysis:

Water Resources Goals and Objectives (Page 17) lists objectives in support of the overall Water Resources Goal and presents water resource strategies and recommendations to achieve these objectives.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

The First Vision

Overall Strategies #1 (Page 20) describes a strategy to minimize the impact of destination and through traffic on the community.

3. Preservation Goals

Regarding Preservation Goals, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article I. Introduction

Section B. The Town's Visions (Page 5) states as a fundamental vision that “Changes in land use patterns must result in benefits and resolve problems. The market value realized through society's decisions to promote development (for example, through zoning, annexation, and infrastructure) will be directed toward a community vision of an improved quality of life and to offset initial costs and create substantial continuing revenue for the community.”

Section B. The Town's Visions (Page 5) also lists a series of objectives designed “to maintain balance in New Market's economic, aesthetic, cultural, and historic elements.

This notion is built on a commitment to change at a pace that preserves the Town's special quality of life, preserves its diversity of citizenry and architecture, and preserves open space and the environment, as well as the Town's historic character."

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

The Third Vision

Achieving the Vision (Pages 45-47) identifies strategies, policies, and actions to preserve the historic, small town atmosphere of New Market.

4. Are the plan's goals and visions consistent with long-term policy?

Regarding Consistency, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article VII Relationship of New Market's Long-Term Development Policy to the Vision of its Future Character (Pages 33-34) describes the relationship of New Market's long-term development policy to the vision of its future character.

The New Market Water Resources Element Addendum contains the following pertinent information and analysis:

The **Introduction** (Page 2) states "New Market's water and sewage treatment facilities are managed by Frederick County and provided to the Town based on Water Service Area Agreements that detail the timing and process for allocating water and sewer taps by the County to the Town."

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

Achieving the Vision (Pages 21-47) contains the four central Visions for New Market. Each Vision is accompanied by a set of Strategies, Land Use Policies, and Standards, Guidelines, and Administrative Measures expressed as specific action items for the Town to follow. The Visions, Strategies, Policies, and Actions are closely related and internally consistent.

Requirement 2. Consideration of past growth patterns of the municipal corporation;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Change in developed acreage, Population change, Location of land use changes, and Historical trends/issues.

1. Change in developed acreage

Regarding change in developed acreage, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article II. The Growth of New Market

Section B. Land Use Change (Pages 7-8) and **Section 1. Land Needs** (Pages 14-15) contain descriptions of land use change. Table 4 on page 15 shows land needed in the future under various projections.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article II. The Master Planning Challenge (Page 4) contains a brief description of change in the community and the master planning challenge it faces.

2. Population change

Regarding population change, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article II. The Growth of New Market

Section A. Population: Past Growth Trends and Patterns (Page 6, Table 1) contains population change since 1940 for New Market, the New Market Region, and Frederick County.

The New Market Water Resources Element Addendum contains the following pertinent information and analysis:

Population Projections (Pages 4-6) contains County and Town population figures and is cross-referenced with the MGE.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article II. The Master Planning Challenge

New Market's Regional Context (Pages 15-18) contains background data on Town and County population that were used in preparation of the MGE.

3. Location of land use changes

Regarding location of land use changes, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article II. The Growth of New Market

Section B. Land Use Change (Page 7) contains a summary of land use changes since 1793.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

The Second Vision

Overall Strategies #1 (Pages 24-25) describes a strategy to expand the current growth area boundaries to better reflect property ownership patterns and potential development opportunities.

4. Historical trends/issues

Regarding historical trends/issues, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article I. Introduction (Pages 2-3) outlines the history of New Market.

Article II. The Growth of New Market

Section C. Issues (Pages 9-10) contain a discussion of the transportation issues.

The New Market Water Resources Element Addendum contains the following pertinent information and analysis:

Water Service Area Agreement Background (Pages 6-7) contains background information on the Water Service Area Agreement between the Town and the County.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article I. The Roots of a Community (Pages 1-3) contains a brief history of New Market.

Article II. The Master Planning Challenge

The Built Environment: Opportunities and Constraints (Pages 9-15) contains descriptions of the issues surrounding such community facilities as thoroughfares, schools, fire and ambulance service, police and public safety, parks and recreation, and libraries.

New supplementary information regarding the requirement for *past growth patterns of the municipal corporation* is contained in the following:

Article II. The Growth of New Market

The following Table 1 is a modification of the Table on page 6 of the **MGE**. Estimates for 2008 and 2030 have been eliminated.

Table 1. Population Change

Year	Town of New Market		New Market Region		Frederick County	
	Number	% Change	Number	% Change	Number	% Change
1940	360	22%	2,653	15%	57,312	5%
1950	301	-16%	2,759	4%	62,287	9%
1960	358	19%	3,596	30%	71,930	15%
1970	339	-5%	6,834	90%	84,927	18%
1980	306	-10%	9,857	44%	114,792	35%
1990	328	7%	15,855	49%	150,208	31%
2000	427	30%	29,107	84%	195,277	30%
2005	480	12%	34,160	17%	228,100	17%

Source: US Census, Comments on the Town of New Market Draft Municipal Growth Element, August 11, 2010

Requirement 3. Consideration of the capacity of land areas available for development within the municipal corporation, including in-fill and redevelopment;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Population growth projections for horizon year of plan, Capacity of lands available for development (incl. infill & redevelopment), and Future municipal growth areas (anticipated annexation areas).

1. Population growth projections for horizon year of plan

Regarding population growth projections for horizon year of plan, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article III. New Market's Land Needs

Section A. Future Population Growth Within the Town (Pages 10-11) show the State population projections.

Section B. County Growth Assumptions (Pages 11-14) contain the County population projections.

Section C. Development Beyond Present Town Limits (Page 15, Table 4) shows 2030 population projections by jurisdiction, growth area, and planning area.

The **New Market Water Resources Element Addendum** contains the following pertinent information and analysis:

Population Projections (Pages 4-6) contains County and Town projections and is cross-referenced with the MGE.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article II. The Master Planning Challenge

New Market's Regional Context (Pages 15-18) contains the population forecasts carried out in 2005 and updated in 2010.

2. Capacity of lands available for development (incl. infill & redevelopment)

Regarding capacity of lands available for development (incl. infill & redevelopment), the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article II. The Growth of New Market

Section B. Land Use Change (Page 8) states the following “The current residential merchant historic district serving residents and visitors, providing visitor-oriented uses such as antique shops, bed and breakfast inns and the like, will be preserved and enhanced. Specialty commercial uses will be accommodated to allow for new uses complementary to existing development, subject to all development standards and regulations. Businesses offering goods and services consistent with the historic character of the area, its current uses, and its residential base will be encouraged and associated residential use requirements will apply to encourage coexistence in all commercial zones.”

“Outside the historic district and residential areas, land appropriate for commercial, light industrial, and office/research development now exists and annexation studies shall be undertaken to examine bringing these possible employment locations into New Market. Industry must have access to transportation facilities and New Market occupies a key Interstate Highway location. Annexations that result in a regional balance between housing and employment opportunities, reduce potential commute distances, and are consistent with the visions and policies of the New Market Plan will be welcome.”

Article III. New Market's Land Needs

Section 1. Development Capacity by Zoning Category (Pages 10-11) shows development capacity by zoning district.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article II. The Master Planning Challenge

New Market's Regional Context (Pages 12-15) contains the capacity forecasts carried out in 2005 and updated in 2010.

Article III. Visions, Strategies, and Actions

The Second Vision

Overall Strategies #3 (Pages 30-32) contains a roads analysis that formed the basis of the analysis in the MGE.

3. Future municipal growth areas (anticipated annexation areas)

Regarding future municipal growth areas (anticipated annexation areas), the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article III. New Market's Land Needs

Section C. Development Beyond Present Town Limits (Page 14) discusses development beyond Town Limits and shows a new "Planning Area" outside the Town. The redefined area is shown on Map 2 New Market Proposed Land Use.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

The Second Vision

Overall Strategy #1 (Pages 24-25) describes a strategy to expand the current growth area boundaries to better reflect property ownership patterns and potential development opportunities.

Article V. The Land Use Plan (Pages 48-49) and the Proposed Land Use Map describes a proposed distribution of land uses in the New Market region. This material was the basis for the revised land use map in the MGE.

New supplementary information regarding the requirement for *the capacity of land areas available for development within the municipal corporation, including in-fill and redevelopment* is contained in the following:

Article III. New Market's Land Needs

The **Background and Trend Data** paragraph on page 10 should be revised to read – "Based on the Census Bureau's most recent population estimates, the Town of New Market had a population of 480 in 2005, an increase of 53 since the 2000 Census (427). In 2000, the City had a total of 159 households. The Town of New Market is expected to grow from 179 households in 2005 to 647 by 2030, an increase of 468.¹"

The material on page 14 contained in **C. Development Beyond Present Town Limits** should be revised to read – "The Town describes its growth area in terms Annexation Area which is a subset of a larger Planning Area. The Planning Area is composed of those properties that will have an impact on the Town over the next 20 to 50 years. The Planning Area is further broken down into an Annexation Area. This is essentially a subset of properties that the Town anticipates growth within the next 20 years. The properties that comprise the Annexation Area are the Smith/Cline (7&6 on Land Use Map), Delaplaine (4) and Ganley properties as well as the 10.2223 acres that are contiguous to the Mansfield Commercial property extending along the north side of Maryland Rt. 144 and east of Md. Rt. 75 all the way and including the Food Lion property (Lots 2R, 3, 4, 5, Outlot and portion of Morning Gate Lane in the Turnpike Farms Subdivision)² (5).

¹ Draft Town of New Market Development Capacity Analysis, MDP, November 2009 (see Appendix 1).

² Petition for Annexation of 10.2223 acres, more or less, into The Town of New Market, pg.1, Weinberg & Miller, LLC June 7, 2010 (see Appendix 2).

Table 3. Zoning District Household Capacity³

Zoning District	Zoning District Description	New Household Capacity	Acres
AP	Amusement Park		17.7
I	Institutional		3.4
MC	Mixed Commercial		5.2
MRS	Mixed Residential Service	26	21.7
OS	Open Space*		6.3
R1	Low Density Residential	336	266.9
R2	Medium Density Residential		1.0
RM	Residential Merchant	3	41.2
TOTAL		365	363.4

“Development capacities were calculated for current Town (see Appendix 1). These calculations can be found in Table 3 pg. 11. Table 10-30: New Market Community Land Use Plan: Town Portion ⁴ pg. 13 illustrates the County’s calculations for the Town’s development capacity. The Town has chosen to use MDP’s estimate since it provided a more conservative number. It should be noted that there is variation in the estimates of 57 units (365-308).

“The Town does not plan to grow in those areas designated as a Planning Area that is not in the annexation area subset. The County’s New Market Community Growth Area exactly matches the Town’s Planning Area with the exception of the Smith (7), Cline (6), Delaplaine (4), Casey (3) and Blentlinger (2) properties. The Casey and Blentlinger properties are not in the Annexation Area subset and are therefore not designated for growth within the Town. However, the County’s Growth Area south of I-70 matches the Town’s Planning Area without exception. Thus, while the County anticipates growth in these areas, the Town does not plan currently to annex them as evidenced by the fact that they are not in the Town’s Annexation area. Therefore, no development capacities were calculated for them in the NMMGE. However, by placing these properties in our Planning Area, the Town recognizes that their development will have an impact on the Town. Thus, the Town reserves the right to amend its plan to include those properties or any property within the Planning Area should the County permit development in those areas before Town anticipates. For example, the Ganley property, the 10.2223 acres that is contiguous to the Mansfield Commercial property extending along the north side of Maryland Rt. 144 and east of Md. Rt. 75 all the way and including the Food Lion property (Lots 2R, 3, 4, 5, Outlot and portion of Morning Gate Lane in the Turnpike Farms Subdivision) and the County Growth Area south of I-70 are all zoned and within a County Water and Sewer Service Area.⁵ However, their development is dependent upon the completion of the Bush Creek Interceptor and capacity related improvements to the McKinney WWTP. Should these improvements occur before the 20-50 year Town Planning Area horizon, the Town would then consider amending its plan in order to incorporate the properties south of I-70 within both County Community Growth Area and Town Planning Area into the Town’s Annexation Area. It should be noted that the impacts of these properties are included in the County’s Comprehensive Plan. Thus, since growth is already planned for those areas annexation is simply a matter of amending the Town’s WSAA in order to change jurisdiction. Demand on public facilities would remain unchanged. Essentially a development

³ Draft Town of New Market Development Capacity Analysis, MDP, November 2009 (see Appendix 1).

⁴ A Comprehensive Plan for Frederick County, Md. Adopted April 2010, pg. 11-71.

⁵ Ibid, pg. 09-13.

in a mutually agreed area in the County is no different than one in the Town except that the Town may get the benefit of increase tax base that may serve to enhance its expenditures on police protection, parks and possible future library no less enhance its economic viability. This should be a stated County goal as outlined on pg. 11-1 of the Community and Corridor Plans in the County Comprehensive Plan Adopted April 2010. This specific issue is called out in its policy CP-P-01 on the same page. It specifically states,

“Include the preparation of a municipal-County Planning Agreement that would address concurrence on annexation areas, water and sewer service and other relevant issues as part of updates of a municipal comprehensive plan as coordinated with the County.”⁶

“Thus the Town’s plan recognizes the differences and similarities in goals and objectives in our respective plans. It should be noted that the County as operated on no less than 4 plans in the last three years. While the Town’s goals over the last 10 have remained relatively stable, the County’s Plan as gone from one adopted in 2008 that the Town tried to follow with respect to development, utilities, schools and transportation to one that politically constrained those elements. For example, Smith Cline has two water transmission lines running through it including a fire hydrant in the middle of a cow field. It has sewer lines abutting the property. A two lane bifurcated Mussetter Rd. dead ends at the property line where it was once planned to extend through. Thus, to the extent that there are inconsistencies between the County and Town plans is not attributable to any physical inability to provide services to our planned Annexation Area (with the exception of the Delaplaine property), but rather a political one. The Town finds coordinating its plan with an ever volatile County political environment challenging at best. Now the Town anticipates the new County Board to again make certain revisions to the plan. If so, the Town will welcome the opportunity to exercise County Policy CP-P-01 using our combined growth management and concurrency tools including but not limited to APFO, annexation agreements, DRRA’s, and WSAA’s.”

The material beginning on page 14 with the heading **1. Land Needs** should be revised to read as follows – “MDP, Frederick County and Town 2030 population estimates for New Market is provided in Table 4. The numbers reflect added population growth over the 2005 population of 480. The County population estimate is base on Table 10-30 (308du’s x 2.60). Kindly note the Town uses a high more conservative population per household factor of 2.65. This comes directly from Table 2.

Table 4. 2030 Population Estimates

Source of Estimates	Town of New Market 2005	New Market In-Town Capacity	New Market Annexation (by Town)	Total Population	Land Needed in Acres (1)
MDP	480	949	NA	1,429	156
Frederick County	480	800	NA	1,280	182
New Market	480	967	2451 (2)	3,898	490
	(1) Density yield with sewer @ 3.0 du/acre.				
	(2) Includes 925 du on Smith/Cline at a household size of 2.65.				

“The Town recognizes that the projected demand for housing by MDP only exceeds its capacity to supply housing within its current boundaries by only 103 units. Thus, Smith/Cline with 925 units, if annexed,

⁶ Ibid, pg. 11-1

would provide added capacity of 822 units. This attributes to the difference between MDP and County population estimates and the Town's 2030 population estimate of 3,898 ((925du's – 103du's) x 2.65)).

“Since it is clear that both schools and transportation are regional issues, they should be solved cooperatively by both the Town and County. Therefore, the Town recommends that the County redistribute some of its growth to Smith/Cline. The County should maintain an APFO that will have the effect of driving annexations towards municipalities where they can use municipal annexation agreements to exact terms consistent with achieving concurrency for crossing the annexation threshold. The County can accept or deny these terms through the extension of water and sewer.

“Lastly, with respect to land needs and generally accepted planning principals. The Maryland Land Preservation, Parks and Recreation Plan 2009 states on page 5, paragraph 2, “the viability of agriculture and natural resources most often requires the preservation of large, contiguous tracts of land that are relatively free from the intrusive impacts of development.” Paragraph 3 goes on, “The Task Force recognized that patches of farms, forests, watershed lands, and other natural resource habitat surrounded by residential subdivisions and dissected by congested roads constitute a poor return on public investment in conservation, but are increasingly common, even in areas designated by local government and the State.”

“Planning Maryland, Models and Guidelines Vol. 27 pages 2 & 3 state, “The loss of agricultural land and the loading of farm roads with residential vehicle traffic lead to a ‘tipping point’ where agriculture is no longer a viable way of life in many of these areas. Few farmers’ desire increased numbers of motor vehicles, including school buses, on roads that have been used for decades for the movement of tractors, combines and local residents. As such, schools and farms do not usually make the best of neighbors. The pattern of residential development outside of communities and planned growth areas often takes the form of low-density house lots on well and septic systems. These house lots are usually an acre or more in size: sometimes up to three to five acres. Low-density residential development represents a consumption of acreage historically in agricultural use in areas not planned for residential development. This leads to increased vehicle loads on rural roads and the need for community services such as fire and rescue and parks outside of areas planned for these services. Soon, additional school capacity is needed to support the low-density development and the cycle repeats itself until large areas are shifted away from viable agriculture or natural resource uses.”

“The Town believes these conditions currently exist at the Smith Cline properties. Deer Crossing ES is to the north of Smith Cline. The Town and its schools are to the south of it. Boyer's Mill Road with its cars and school buses bisect Smith Cline. The traffic studies, no less the great cattle crossing affair provides further evidence that the Smith Cline farms are no longer viable for either conservation or agriculture. We ask the County to reconsider whether it is wise to place unviable land into agriculture at the expense of a cultural and historic resource such as the Town of New Market. The threat is that the properties owners who may be land rich and cash poor be forced to subdivide into the few lots allowed. This would constitute an irrevocable land use decision that would have a permanent adverse impact on the Town as it shuts down the last remaining bypass corridor. Although the BOCC claims that growth patterns in the plan have changed thereby making the 2007 traffic studies outdated, the mathematical model remains the same due to the network transportation design described earlier. Nearly all growth would have to be placed south of Main St. to alleviate traffic. Losing this transportation corridor to an irrevocable land use decision is an unacceptable risk. We do not know what the future holds; we should be keeping our options open. By not putting Smith Cline in a LDR land use designation and an ultimate water and sewer planned service area, this plan does not recognize the practical realities on the ground. This is a major fallacy.”

Article III. New Market's Land Needs

Section 2. Type and Direction of Growth and Annexation beginning on Page 15 should be supplemented with the following material:

“A. Justification

- “1. Reduce traffic along Main St.**
- 2. Expand and Diversify Tax Base**
- 3. Create Jobs and Economy**
- 4. Avoid County Development Strangulation**

“As New Market Self Storage, Trout's Seafood Distribution Center, CVS Pharmacy, All Tune Lube, Food Lion, High's, Mc Donald's and the New Market Shopping Center demonstrate, the County is perfectly willing to develop property within the Town's Community Growth Boundary without providing for annexation. Thus, opportunity for the Town to achieve its long term planning goals and objectives are rapidly diminishing.

“5. Irrevocable Land Use Decisions

“Smith, Cline and Delaplaine comprise the last west-east transportation corridor north of Md. Rt. 144. Should the Smith and Cline farms develop under any scenario without being required to build a bypass that would constitute an irrevocable land use decision. It should be noted that Smith and Cline may subdivide their properties under its current County zoning. It would be limited in number, but would not require a bypass. Thus, the Town would be stuck with no transportation alternatives and thereby face an ultimate traffic condition of 3,050 VPH at peak hour.

“B. Annexation Generally

“The annexation and development process provides as many as four and perhaps five opportunities for public input and participation. They are the annexation hearing, County zoning consistency hearing, WSAA amendment meeting at the County, DRRA hearing and establishment of floating zone hearing

“C. Impact Studies

“As a matter of standard practice when the Town receives an annexation petition, it will request, at the petitioners cost, impact studies. These may include, but are not limited to fiscal impacts, school impacts, road impacts and environmental impacts. Given the County controls the Town's water and sewer utilities, the Town must develop an Annexation Plan pursuant to HB1141 that satisfies the County Board of Commissioners that all impacts of development have been reasonably addressed and mitigated through an annexation agreement that provides for funding for schools, roads and other community needs as identified in the studies. As such, these studies should relate to and address issues raised in Staging Mechanisms found on pages 10-27 to 10-29 in the Countywide Comprehensive Plan adopted April 2010. The annexation agreement does not provide a phasing schedule for construction.

“D. Developers Rights and Responsibilities Agreements

“Once a property has been annexed and the referendum period has expired, the Town may enter a DRRA that provides a construction phasing schedule tied to an amendment to the WSAA that provides the capacity and take down schedule for water and sewer taps. The Town generally grants 20 years for

DRRA's that preserves the property owners zoning and phasing. Clearly the property owner must pay for all utility improvement not only on site, but for any offsite improvements required to provide the needed capacity as deemed by the County. A DRRA requires a public hearing. This is another opportunity for public input.

"E. Water Service Area Agreement

Before any develop phasing can be established in a DRRA the Town and County must amend the WSAA to provide capacity to serve the proposed development. This is the mechanism that provides a check and balance system for annexation and growth staging and financing.

"F. Floating Zones

"The Town generally likes the community design flexibilities afford by floating zones whether residential or commercial as opposed to straight Euclidean zoning. Floating zones can only be requested after annexation becomes final. Establishment of a floating zone requires a recommendation of consistency by the Town's Planning Commission and a public hearing by the Town Council.

"G. Historic Character

"The Town's Land Development Ordinance requires all annexed properties to be subject to architectural review by the Town's Architectural Review Commission. This ensures the Town's Historic Character will be preserved regardless of type of development. This is in sharp contrast to county development within the Community Growth Boundary as exemplified by a self storage facility, CVS Pharmacy, All Tune Lube and Costco Warehouse that was developed without any Town input."

Requirement 4. Consideration of the land area needed to satisfy demand for development at densities consistent with the long-term development policy;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Land needed to satisfy future demand, Anticipated capacity/zoning of future annexation areas, and Relationship between projections and land capacity.

1. Land needed to satisfy future demand

Regarding land needed to satisfy future demand, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Section C. Development Beyond Present Town Limits (Pages 14-18) describes the land area needed to accommodate future growth and annexation. The area is shown on Map 2 New Market Proposed Land Use.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article II. The Master Planning Challenge

New Market's Regional Context (Pages 15-18) contains the population and capacity forecasts carried out in 2005 and updated in 2010.

2. Anticipated capacity/zoning of future annexation areas

Regarding anticipated capacity/zoning of future annexation areas, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article III. New Market's Land Needs

Section C. Development Beyond Present Town Limits (Pages 14-18) describes the capacity and zoning of future annexation areas.

3. Relationship between projections and land capacity

Regarding the relationship between projections and land capacity, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article II. The Growth of New Market

Section B. Land Use Change (Page 8) describes the land use principles that will guide future land use changes. Summarized, these are –

- Compact, high quality residential, employment, and institutional development is desirable
- Mixed Uses Are Desirable
- Natural Features Should Determine Design

Article III. New Market's Land Needs

Section C. Development Beyond Present Town Limits (Pages 14-18) describe the relationship between projections and land capacity.

Requirement 5. Consideration of public services and infrastructure needed to accommodate growth within the proposed municipal growth areas, including those necessary for;

[A summary of infrastructure impacts is contained on pages 27-29 in Section I. Infrastructure Summary of the MGE.]

Requirement 5. A. Public schools, sufficient to accommodate student population consistent with State rated capacity standards established by the Interagency Committee on School Construction;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Public School Capacity.

1. Public School Capacity

Regarding public school capacity, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article IV. Growth's Impact on Public Services and Facilities

Section B. Public Schools (Pages 20-22) contains a discussion and analysis of school capacities.

The **2005 New Market Master Plan** contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

The Second Vision

Overall Strategy #3 (Pages 27-30) contains a public school analysis that formed the basis of the analysis in the MGE.

Standards, Guidelines, and Administrative Measures (Page 42-44) describes specific actions to improve school planning.

New supplementary information regarding the requirement for *public schools* is contained in the following:

Article IV. Growth's Impact on Public Services and Facilities

B. Public Schools

Following the discussion of school capacities on pages 20-22, the following material should be added – “The tables below provide the most up to date projection for the Oakdale and Linganore feeder patterns. They are based on the projects in the FCPS 2010 EFMP. All Planning and Annexation Areas west of Boyer’s Mill Rd. are in the Oakdale feeder pattern (See Maps 1 & 2). Thus, Smith Cline pupils would attend DCES, OMS and OHS. The tables below reflect the new data through 2019 as well as the changes from the NMMGE Adopted November 17, 2010.”

Oakdale Feeder Pattern

School	SRC	2009 Enrollment	2009 Enrollment	Projected 2019 Enrollment	Projected 2019 % SRC	Yield Factor	Smith-Cline Units	Smith-Cline Pupils	Additional Capacity Construction	2019 Enrollment Adjusted for Smith-Cline	2019 % SRC Adjusted for Smith-Cline
Deer-crossing ES	641	772	120%	755	118%	0.34	925	314.50	0	1,069.50	167%
Oakdale MS	600	600	100%	690	115%	0.15	925	138.75	300	828.75	92%
Oakdale HS	1,600	0	0%	1,204	75%	0.21	925	194.25	0	1,398.25	87%

The current estimated cost of the Oakdale MS addition is \$8.9 million. Frederick County Public Schools has scheduled design in FY18 and construction in FY19 in the 2011 Superintendent’s Recommended Educational Facilities Master Plan. The BoE has a public hearing scheduled for the 2011 EFMP on September 14th and is scheduled to adopt the EFMP on September 26th. The Oakdale MS addition project is not included in the County’s approved FY12-17 CIP.

Linganore Feeder Pattern

School	SRC	2009 Enrollment	%SRC	Projected 2019 Enrollment	Projected 2019 % SRC	Yield Factor	Smith-Cline Units	Smith-Cline Units	Additional Capacity Construction	2019 Enrollment Adjusted for Smith-Cline	2019 % SRC Adjusted for Smith-Cline
New Market ES	702	557	79%	834	119%	0.26	0	0		119%	0%
New Market MS	881	765	87%	618	70%	0.14	0	0		70%	0%
Linganore HS	1,600	1,766	110%	1,350	84%	0.11	0	0		84%	86%

Changes in FCPS Enrollment Projections

School	SRC	Modified 2B 2009 Enrollment	2010 EFMP 2009 Enrollment	2009 % Δ SRC	Modified 2B 2014 Enrollment	2010 EFMP 2014 Enrollment
Deercrossing ES	641	757	772	2%	711	681
Oakdale MS	600	579	600	4%	613	648
Oakdale HS	1,600	0	0	0%	1,204	1,200
New Market ES	702	533	557	3%	719	769
New Market MS	881	809	765	-5%	581	526
Linganore HS	1,600	1,751	1,766	1%	1,449	1,487

“It should be noted that Smith Cline pupil yield is based on Single Family Homes.

“The current school projections are consistent with the NMMGE Adopted November 17, 2010. There will not be enough elementary school capacity for the Smith Cline development. There is an overall need for 561 elementary school seats. This includes 132 seats at NMES, 114 seat at DCES and 315 seats generated by Smith Cline. Thus, through the joint planning process, the Town and the County must establish growth staging and funding mechanisms to resolve the long term elementary school capacity issues.

“The Town maintains that capacity for Town growth should be reserved as a matter of policy. Relative to the overall regional population, the Town occupies only a small percentage of school capacity at any level. Smart Growth would suggest that if development should occur around currently developed areas, then school capacity must be reserved to achieve this goal for the Town.”

Requirement 5. B. Libraries;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Library Services.

1. Library Services

Regarding library services, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article IV. Growth's Impact on Public Services and Facilities

Section C. libraries (Pages 22-23) describes library service impacts.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

The Second Vision

Overall Strategies #3 (Page 33) contains a library analysis that formed the basis of the analysis in the MGE.

Standards, Guidelines, and Administrative Measures (Page 42-44) describes specific actions to improve access to libraries.

New supplementary information regarding the requirement for *public libraries* is contained in the following:

Article IV. Growth's Impact on Public Services and Facilities

C. Libraries

Following the discussion of libraries on pages 22-23, the following material should be added – “Regarding the potential donation of the W. Franklin Smith home on South Alley for the purposes of a community/town library Mr. Darrell Batson, Director, Frederick County Public Libraries provides the following information on the staffing and cost of operations.

“The best comparison I could make with County Library Facilities is the Point of Rocks Community Library. It is one room of the Community Center and is opened 20 hours per week. Two part-time Library Assistant I staff members operate the library. The Library System had most of the furniture and collection on hand when we opened and so the only major costs were the computers, printers, circulation system, etc. The cost of operating this facility is approximately \$48,000.00 per year. However, we have a member of the Point of Rocks Community that contributes \$40,000.00 per year for its operation. It has a rotating collection, two public computers, full access to all electronic resources of the Library System, Interlibrary Loan privileges, and children’s programming. At the present time it is averaging a circulation rate of 1,600 items per month.”

“To fully set up a new facility and get it going like a regular library branch would be approximately \$25,000.00 to \$35,000.00. This is based on your description of the property. That is if the County Library System did it. Now

you can start as a small volunteer operation with donated desks, shelves, collection and possibly a computer, but you will have monthly computer, electricity, sewer, water, etc. charges. It has also been our experience that small volunteer libraries that have started in our County during the past decade has ceased operation within a few months for lack of staffing and public usage.”

The initial outlay for the set up would need to be placed in the Town’s Capital Improvement Budget. The annual operating costs would need to be added to the Town’s Operating Budget. The Town would need to conduct a fiscal impact study in order to determine whether the marginal tax income would support the cost of the proposed library operation.”

Requirement 5. C. Public Safety, including Emergency Medical Response;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Public safety, medical response, police, and fire.

1. Public safety, medical response, police, and fire

Regarding public safety, medical response, police, and fire, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article IV. Growth’s Impact on Public Services and Facilities

Section D. Public Safety (Page 23) describes police and public safety impacts.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

The Second Vision

Overall Strategies #3 (Page 34-36) contain a police, fire, and rescue analysis that formed the basis of the analysis in the MGE.

Standards, Guidelines, and Administrative Measures (Page 44) describes specific actions to improve public safety.

New supplementary information regarding the requirement for *public safety* is contained in the following:

Article IV. Growth’s Impact on Public Services and Facilities

Section 1. Police and Public Safety on page 23 should add the following language – “The Frederick County Division of Fire and Rescue Services (DFRS) provides staffing for 5 fire and rescue personnel Monday thru Friday’s from 6am to 6pm. DFRS provides 3 fire and rescue personnel during evenings and weekends. A map of response times is provided on Map 3 in the appendices.”

“Both police and fire and rescue are services both town and county residents pay alike. To the extent that the Town provides extra or duplicate services by participating in the Extra Duty Hours Program or

budgetary contributions or fee waivers to the NMVFD, these expenditures would be eligible for a County-Municipal Tax Set off. The cost of these services and the required increase in resident's taxes to pay for them is discussed on pg. 23 of the NMMGE. The marginal income from taxes received from each new county/town resident should cover the marginal cost of that resident. Thus, if the County provides one deputy per every 750 residents and new deputy can be hired when the 750th residents moves in. If a new deputy can not be hired this would be an indication of a structural problem with the tax rate. Since county and town residents are all paying the county the same tax we should each receive the same service provided the County's tax structure is appropriate. Nonetheless, the Town desires to not only maintain but grow its public safety coverage through Extra Hours and Community Deputy Programs as the Town grows. The Town has a good relationship with the Sheriff's Dept. as well as Frederick County Division of Emergency Management as evidence by adopting their Hazard Mitigation Plan. The Town views these services as shared not necessarily proprietary to the County exclusively. As the current Board of County Commissioners state, "we are One County."

Requirement 5. D. Water and Sewerage Facilities;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Water Facilities and Sewer Facilities.

1. Water Facilities

Regarding water facilities, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article IV. Growth's Impact on Public Services and Facilities

Section E. Water and Sewerage Facilities (Pages 23-26) describes water facility impacts.

The New Market Water Resources Element Addendum contains the following pertinent information and analysis:

Drinking Water Capacity and Demand (Pages 8-9) analyzes drinking water capacity and demand and the water demand created by projected Town growth.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article II. The Master Planning Challenge

Community Facilities (Pages 11-13) contains a description of the issues relating to water supply.

The Second Vision

Overall Strategies #3 (Page 33) contains a utility analysis that formed the basis of the analysis in the MGE.

New supplementary information regarding the requirement for *water facilities* the following information should be added.

IV. Growth's Impact on Public Services and Facilities

E. Water and Sewerage Facilities

3. Water Demands Created by Projected Growth

“MDP Comment(s)

Financing Mechanisms

Please ensure that the MGE includes a discussion of financing *mechanisms* to pay for those items associated with public school capacity, library services, public safety, water facilities, sewer facilities and stormwater management systems. Merely listing a cost without an analysis of how it will be paid for does not fulfill the MGE requirements.

DUSWM Related Comments

The provision of water and sewer service within the Town of New Market, by agreement, is provided by Frederick County, specifically, the County's Division of Utilities and Solid Waste Management (DUSWM). The DUSWM water and sewer systems are proprietary enterprise funds within the County government. The DUSWM uses a number of mechanisms to fund water and sewer system expansions and improvements. The County and its municipalities have the legal means to finance water and sewerage facilities through the issuance of general obligation bonds backed by the full faith and credit of the respective jurisdiction. With few exceptions the major elements of the water and sewer infrastructure such as treatment plants, transmission lines and interceptors are funded by the enterprise's Capital Improvements Program (CIP), while distribution system expansions are typically funded by developers or others. The County's water and sewer plan provides additional detail on the anticipated expansion (and source of funding) of County water and sewer systems.

MDP Comment(s)

New Market Growth Area MGE Water Analysis

- The MGE does a good job of projecting future dwelling units and demand for both water and sewage at build-out.
- The MGE indicates that at build-out demand will surpass water supply currently being permitted by a Water Service Area Agreement (WSAA) with Frederick County, but plans to provide alternate sources of water are unclear.

DUSWM Related Comments

As mentioned earlier, by agreement, the County is the sole provider of water in the Town.^[1] Paragraph 10 of the WSAA specifically states:

“The Town acknowledges and agrees that the County shall be the sole provider of water service within the boundaries of the Town, as shown on Exhibit A. To the extent that the boundaries may, from time to time, be modified through annexation, the Town and the County will amend this WSAA or enter into a new agreement for water service to additional areas.”

^[1] See page 6, paragraph 10, of the Water Service Area Agreement, dated April 29, 203.

Specific information on the County's water supply system can be found in the County's Water and Sewerage Plan. The County's Potomac River water supply is the primary source of water for the Town of New Market. Both the incorporated and un-incorporated areas near New Market are designated to be served by the County's public water supply. Specifically, the New Market area is served by the County's East County Water Distribution system which relies on the Potomac River supply, which has a permitted and physical capacity of 25 million gallons per day (MGD). Although the amount of water system capacity provided is presently limited by the WSAA, these limitations were based on the need to complete certain water (and sewer) infrastructure projects to establish the full amount of capacity needed by the area. The WSAA agreement is a living document, which can be amended as needed to increase the amount of water system capacity specifically available to and provided within the Town. The County's Potomac River water supply system currently has adequate capacity to serve the number of equivalent dwelling units the Town expects to have at build-out. However, water distribution lines within the Town, to serve all of these units, is not yet in place.

- The MGE indicates that current WWTP capacity could accommodate future build-out but that current WWTPs will be replaced by a new plant. The capacity of the future plant is not specified.

DUSWM Related Comments

The New Market and Monrovia WWTPs, which currently serve portions of the Town, will be decommissioned once the new Bush Creek Interceptor is completed. The elimination of these existing WWTPs and the diversion of their flow to the Ballenger-McKinney Enhanced Nutrient Removal (ENR) WWTP is discussed in detail in the Frederick County Water and Sewerage Plan. The Ballenger–McKinney WWTP is currently permitted for 15 MGD flow and has nutrient allocation for 18 MGD.

MDP Comment(s)

New Market Growth Area MGE Water Analysis

- Potable water is treated at the Potomac River (New Design Road) WTP. The capacity of this plant is unclear. The MGE states that the WTP has increased in capacity by 2.2 MGD but the initial capacity is not stated (p. 24). The MGE states that the ultimate capacity of the WTP is 26 MGD and 25 MGD (p. 24). The MGE also states that a new section of the WTP is scheduled to provide capacity in excess of 16 MGD. Does this figure include current capacity or is it in addition to the 25/26 MGD capacity previously stated?

DUSWM Related Comments

The County's Potomac River water supply, which includes the County's New Design Road Water Treatment Plant, has a permitted and installed capacity of 25 MGD.^[2] The recently expanded New Design Road WTP has been designed so that it can be expanded in increments up to 45 MGD.

- The Town anticipates that 150 additional water connections will be granted by the County after actual EDU flow is calculated. The Town believes actual EDUs will be lower than the 250 GPD used by the County (p. 25). This will result in a total of 770 EDUs being allocated to the Town creating a total water capacity of 192,500 GPD.

^[2] The New Design Road WTP has a permitted 26 MGD Maximum daily withdrawal. The WTP design capacity is 25 MGD.

DUSWM Related Comments

The County prospectively uses the 250 GPD/EDU average daily value until actual long-term demand data for a particular area is established and can be relied upon. Presently the entire Town is not served by the County's public water supply system. The WSAА anticipated a protracted expansion of water lines into the Town, which is in part the basis for the allocation tables in the WSAА. The County allocates water system capacity based on maximum day demand not average daily demand.

- As of 2005 the Town had 179 households, which equals 44,750 GPD water demand (based on 250 GPD per EDU). At build-out the town will have 1,645 dwelling units, which will create demand for 411,000 GPD (p. 26). This is well above the water capacity being provided by the County. The MGE does not specify where additional water will come from. It is implied that the additional water will be produced by a future Town water system.

DUSWM Related Comments

The County is the sole water supply purveyor for the Town. The Potomac River water supply system is the County's primary water supply for the New Market area. The County's New Design Road WTP has an existing maximum day capacity of 25 MGD, of which 8 MGD is allocated to the City of Frederick. The remainder, 17 MGD represents the amount of system capacity available for the County's water service areas. The County planned the New Design Road WTP, its river intake, and treated water transmission system, for an ultimate capacity of 45 MGD.

The recently completed 25 MGD expansion (of the 45 MGD Ultimate Capacity) is the first major phase of the WTP planned capacity.

DUSWM Related Comments

The existing New Market and Monrovia WWTPs are County owned facilities, which provide wastewater treatment for properties within the Town of New Market as well as unincorporated areas outside of the Town. The capacity of the first phase of the Ballenger-McKinney WWTP, which is presently under construction, is 15 MGD (37.5 MGD Peak). This treatment plant's capacity and the decommissioning of the New Market and Monrovia WWTPs is well documented in the County's Water and Sewerage Plan. Please refer to page 4-15 in Chapter 4 of the Plan for more information on the County's Ballenger-McKinney WWTP and the systematic diversion of flows from minor WWTP that do not have advanced (ENR) treatment systems.

2. Sewer Facilities

Regarding sewer facilities, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article IV. Growth's Impact on Public Services and Facilities

Section E. Water and Sewerage Facilities (Pages 23-26) describes sewer facility impacts.

The New Market Water Resources Element Addendum contains the following pertinent information and analysis:

Wastewater Treatment Capacity and Demand (Pages 9-13) analyzes wastewater treatment capacity and demand and sewer demands created by Town growth.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article II. The Master Planning Challenge

Community Facilities (Pages 11-13) contains a description of the issues relating to sewer facilities
The Second Vision

Overall Strategies #3 (Page 33) contains a utility analysis that formed the basis of the analysis in the MGE.

New supplementary information regarding the requirement for *sewer facilities* the following additional information should be added.

Article IV. Growth's Impact on Public Services and Facilities

4. Sewer Demands Created by Projected Growth

"MDP Comment(s)"

Financing Mechanisms

Please ensure that the MGE includes a discussion of financing *mechanisms* to pay for those items associated with public school capacity, library services, public safety, water facilities, sewer facilities and stormwater management systems. Merely listing a cost without an analysis of how it will be paid for does not fulfill the MGE requirements.

DUSWM Related Comments

The provision of water and sewer service within the Town of New Market, by agreement, is provided by Frederick County, specifically, the County's Division of Utilities and Solid Waste Management (DUSWM). The DUSWM water and sewer systems are proprietary enterprise funds within the County government. The DUSWM uses a number of mechanisms to fund water and sewer system expansions and improvements. The County and its municipalities have the legal means to finance water and sewerage facilities through the issuance of general obligation bonds backed by the full faith and credit of the respective jurisdiction. With few exceptions the major elements of the water and sewer infrastructure such as treatment plants, transmission lines and interceptors are funded by the enterprise's Capital Improvements Program (CIP), while distribution system expansions are typically funded by developers or others. The County's water and sewer plan provides additional detail on the anticipated expansion (and source of funding) of County water and sewer systems.

MDP Comment(s)

New Market Growth Area MGE Water Analysis

- The MGE does a good job of projecting future dwelling units and demand for both water and sewage at build-out.
- The MGE indicates that at build-out demand will surpass water supply currently being permitted by a Water Service Area Agreement (WSAA) with Frederick County, but plans to provide alternate sources of water are unclear.

DUSWM Related Comments

As mentioned earlier, by agreement, the County is the sole provider of water in the Town.^[1] Paragraph 10 of the WSAA specifically states:

“The Town acknowledges and agrees that the County shall be the sole provider of water service within the boundaries of the Town, as shown on Exhibit A. To the extent that the boundaries may, from time to time, be modified through annexation, the Town and the County will amend this WSAA or enter into a new agreement for water service to additional areas.”

Specific information on the County’s water supply system can be found in the County’s Water and Sewerage Plan. The County’s Potomac River water supply is the primary source of water for the Town of New Market. Both the incorporated and un-incorporated areas near New Market are designated to be served by the County’s public water supply. Specifically, the New Market area is served by the County’s East County Water Distribution system which relies on the Potomac River supply, which has a permitted and physical capacity of 25 million gallons per day (MGD). Although the amount of water system capacity provided is presently limited by the WSAA, these limitations were based on the need to complete certain water (and sewer) infrastructure projects to establish the full amount of capacity needed by the area. The WSAA agreement is a living document, which can be amended as needed to increase the amount of water system capacity specifically available to and provided within the Town. The County’s Potomac River water supply system currently has adequate capacity to serve the number of equivalent dwelling units the Town expects to have at build-out. However, water distribution lines within the Town, to serve all of these units, is not yet in place.

- The MGE indicates that current WWTP capacity could accommodate future build-out but that current WWTPs will be replaced by a new plant. The capacity of the future plant is not specified.

DUSWM Related Comments

The New Market and Monrovia WWTPs, which currently serve portions of the Town, will be decommissioned once the new Bush Creek Interceptor is completed. The elimination of these existing WWTPs and the diversion of their flow to the Ballenger-McKinney Enhanced Nutrient Removal (ENR) WWTP is discussed in detail in the Frederick County Water and Sewerage Plan. The Ballenger–McKinney WWTP is currently permitted for 15 MGD flow and has nutrient allocation for 18 MGD.

MDP Comment(s)

New Market Growth Area MGE Water Analysis

- Potable water is treated at the Potomac River (New Design Road) WTP. The capacity of this plant is unclear. The MGE states that the WTP has increased in capacity by 2.2 MGD but the initial capacity is not stated (p. 24). The MGE states that the ultimate capacity of the WTP is 26 MGD and 25 MGD (p. 24). The MGE also states that a new section of the WTP is scheduled to provide capacity in excess of 16 MGD. Does this figure include current capacity or is it in addition to the 25/26 MGD capacity previously stated?

DUSWM Related Comments

The County’s Potomac River water supply, which includes the County’s New Design Road Water Treatment Plant, has a permitted and installed capacity of 25 MGD.^[2] The recently expanded New Design Road WTP has been designed so that it can be expanded in increments up to 45 MGD.

^[1] See page 6, paragraph 10, of the Water Service Area Agreement, dated April 29, 203.

- The Town anticipates that 150 additional water connections will be granted by the County after actual EDU flow is calculated. The Town believes actual EDUs will be lower than the 250 GPD used by the County (p. 25). This will result in a total of 770 EDUs being allocated to the Town creating a total water capacity of 192,500 GPD.

DUSWM Related Comments

The County prospectively uses the 250 GPD/EDU average daily value until actual long-term demand data for a particular area is established and can be relied upon. Presently the entire Town is not served by the County's public water supply system. The WSAA anticipated a protracted expansion of water lines into the Town, which is in part the basis for the allocation tables in the WSAA. The County allocates water system capacity based on maximum day demand not average daily demand.

- As of 2005 the Town had 179 households, which equals 44,750 GPD water demand (based on 250 GPD per EDU). At build-out the town will have 1,645 dwelling units, which will create demand for 411,000 GPD (p. 26). This is well above the water capacity being provided by the County. The MGE does not specify where additional water will come from. It is implied that the additional water will be produced by a future Town water system.

DUSWM Related Comments

The County is the sole water supply purveyor for the Town. The Potomac River water supply system is the County's primary water supply for the New Market area. The County's New Design Road WTP has an existing maximum day capacity of 25 MGD, of which 8 MGD is allocated to the City of Frederick. The remainder, 17 MGD represents the amount of system capacity available for the County's water service areas. The County planned the New Design Road WTP, its river intake, and treated water transmission system, for an ultimate capacity of 45 MGD. The recently completed 25 MGD expansion (of the 45 MGD Ultimate Capacity) is the first major phase of the WTP planned capacity.

DUSWM Related Comments

The existing New Market and Monrovia WWTPs are County owned facilities, which provide wastewater treatment for properties within the Town of New Market as well as unincorporated areas outside of the Town. The capacity of the first phase of the Ballenger-McKinney WWTP, which is presently under construction, is 15 MGD (37.5 MGD Peak). This treatment plant's capacity and the decommissioning of the New Market and Monrovia WWTPs is well documented in the County's Water and Sewerage Plan. Please refer to page 4-15 in Chapter 4 of the Plan for more information on the County's Ballenger-McKinney WWTP and the systematic diversion of flows from minor WWTP that do not have advanced (ENR) treatment systems.

Requirement 5. E. Stormwater management systems, sufficient to assure water quality both inside and outside the proposed municipal growth area;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Stormwater Management Systems.

^[2] The New Design Road WTP has a permitted 26 MGD Maximum daily withdrawal. The WTP design capacity is 25 MGD.

1. Stormwater Management Systems

Regarding stormwater management systems, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article IV. Growth's Impact on Public Services and Facilities

Section F. Stormwater Management (Page 26) points out that Frederick County now plans, reviews, and inspects stormwater systems for the Town. The Town has adopted the latest MDE regulations governing stormwater.

The New Market Water Resources Element Addendum contains the following pertinent information and analysis:

Stormwater and Non-Point Source Assessment (Pages 13-16) contains a detailed analysis of the stormwater management program and a non-point source assessment. The non-point source assessment includes impervious surface cover, nutrient pollution, and TMDLs. The assessment uses the population and capacity estimates from the MGE.

Requirement 5. F. Recreation;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Recreation facilities (MD standard 30 acres per 1,000 population).

1. Recreation facilities (MD standard 30 acres per 1,000 population)

Regarding recreation facilities, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article IV. Growth's Impact on Public Services and Facilities

Section G. Recreation (Pages 26-27) describes recreation impacts.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

The Second Vision

Overall Strategies #3 (Pages 32-33) contains a parks analysis that formed the basis of the analysis in the MGE.

Standards, Guidelines, and Administrative Measures (Page 42) describes specific actions to improve access to recreation.

Requirement 5. G. Transportation;

The Municipal Growth Element Checklist does not contain a transportation category. The Town has added it as a very important item for analysis.

1. Regarding transportation facilities, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article II. The Growth of New Market

Section C. Issues (Page 9) describes the transportation issues that must be resolved to achieve the desired land use pattern.

Article IV. Growth's Impact on Public Services and Facilities

Section A. Transportation (Pages 18-20) describes growth's impact on auto-based and non-auto based transportation.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article II. The Master Planning Challenge

Thoroughfares (Page 9) contains a discussion of the Town's key transportation issues.

New supplementary information regarding *transportation* is contained in the following and in Appendices 3 & 4:

Article IV. Growth's Impact on Public Services and Facilities, A. Transportation, 1. Auto-based Transportation beginning on page 18 should be revised to read – "Article 66B states, "A transportation plan element which shall show proposals for the most appropriate and desirable patterns for the general location, character, and extent of the channels, routes and terminals for transportation facilities, and for the circulation of persons and goods at specified times as far into the future as is reasonable." We only need to look 10 years into the future to know that a bypass will be needed.

"In 2007 the County commissioned Wilson T. Ballard Co. to conduct a series of traffic studies. Wilson T. Ballard Co. is also the Town's engineer. The Summary of Traffic Projections for The Town of New Market is attached to this supplement (see Appendix 3). It summarizes all the County studies from March 2006 to February 2008. Both MDP and MDOT comments suggest that the completion of the Meadow road Interchange and Eaglehead Dr. will "relieve traffic pressure on Main St." However, these mitigation and improvements are already included in the studies. Thus, even with the Meadow Road Interchange and the completion of Eaglehead Dr. the Town faces 3,050 VPH at peak hour or a v/c ratio of 1.14.

"It has been further suggested that the traffic studies did not reflect the latest land use policies adopted in the County Comprehensive Plan adopted April 2010. However, Table 5, pg. 19 of the NMMGE provides just that information. The Town commissioned Wilson T. Ballard Co. to analysis those revisions. Both Eric Soter and Jim Gugel provided the break down of the units as well as providing clarification. The County land use changes only take 31 peak hour trips off Main St.

"MDP also suggests that connecting Royal Oaks Dr. to Md. 874 to Md. 75 as proposed in the County Comprehensive Plan. First, the Town has negotiated such a connection with the developer as part of the LUYAA fields (see Map 4). As this entails a revision to an already approved plan, the endeavor took some effort. Now that the LUYAA field plan is approved and easements

recorded it is unlikely that the developer would again redo his plan. Further, it is doubtful if not wishful thinking that a significant amount of traffic would be diverted from Main St. by such a connection. The number of units comprising that area is very small relative to the overall area. Secondly, the Town plans to make another such connection to Md. 75 from Royal Oaks Dr. via the bypass. This will create multiple alternatives for accessing the fields as well as Md. 75. It also creates the grid transportation network described in the NMMGE.

“Lastly, both MDOT and MDP question the methodology of the studies based on County comment to them. No specifics are provided. Verification of methodology and scoping can be found in a letter from Shawn Burnett of the Wilson T. Ballard Company (Appendix 4). It is incredulous that suggest that the County would spend tens of thousands of dollars as well as many hours of public workshop time on studies predicated on faulty methodology. It is surprising that the County had so much say in MDOT’s and MDP’s comments without any clarification from the Town, hence, the Town’s comment regarding the volatile political nature of the planning process.

“The bypass would extend from its current western terminus described above through the Smith Cline, Town and Delaplaine property at its eastern terminus at Md. 874 (see Map 5). As safety is MDOT’s number one priority, so is it the Town’s. Main St. will not be safe for motorists, pedestrians or bicyclists with 3,050 VPH at peak hour.

“MDP’s comments state Main St. volume is current well below capacity in terms of ADT. This does not take into account peak hour volumes. As the studies suggest and Article 66B states, the Town is looking as far into the future as far as reasonable.”

Requirement 6. Consideration of anticipated financing mechanisms to support necessary public services and infrastructure;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Identify ways for financing future infrastructure improvements (developer, impact fees, taxes...) and When possible identify associated costs with improvements.

1. Identify ways for financing future infrastructure improvements (developer, impact fees, taxes...)

Regarding financing means, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article I. Introduction

Section B. The Town’s Visions (Page 5) states the fundamental vision that “Changes in land use patterns must result in benefits and resolve problems. The market value realized through society’s decisions to promote development (for example, through zoning, annexation, and infrastructure) will be directed toward a community vision of an improved quality of life and to offset initial costs and create substantial continuing revenue for the community.”

Article II. The Growth of New Market

Section C. Issues (Page 9) states that “No new development should be approved unless it can be determined that it will substantially contribute to improvements in safety and traffic flow in the New Market Planning Area. In addition, no new development will be allowed unless it can be determined that adequate public facilities and infrastructure are in place or are planned and funded for construction within a reasonable time period in conjunction with the proposed development.”

Article VI. Financing of Infrastructure Expansion (Page 32) contains the guiding standards for financing infrastructure expansion.

Section B. Financing Responsibilities (Pages 32-33) contains a description of how infrastructure responsibilities will be shared. The key phrase is “No new development will be approved within the Planning Area unless it can be determined that adequate public facilities and infrastructure are in place or are planned and funded for construction within a reasonable time period in conjunction with the proposed development.”

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

The Second Vision

Land Use Policies (Page 41) states as one of several Land Use Policies that “Areas chosen for annexation/development shall be subject to public facilities concurrency and have an adequate level of school facilities; fire, rescue, and police protection; water and sewer facilities; transportation support; recreational opportunities; and other public facilities as identified.”

2. When possible identify associated costs with improvements

New Market has not attempted to identify all improvement costs in detail but will rely on its policy of concurrency no matter what the costs turn out to be.

New supplementary information regarding the requirement for *anticipated financing mechanisms to support necessary public services and infrastructure* is contained in the following:

A new section, **3. Financing**, following **Section IV. Growth’s Impact on Public Services and Facilities, A. Transportation, 2. Non-auto-based Transportation** should be added to read as follows – “Article VI Section B. Financing Responsibilities of the MGE states, “New development will pay its fair share of the costs associated with community facilities...” For example, as part of the yet completed Food Lion annexation, the Town requested the petitioner conduct a traffic study. Since the petitioner would be crossing an annexation threshold, the Town has the flexibility to set an appropriate standard on a case by case basis. The Town required that the study be congruent with the County’s APFO for roads. The Town Engineer, Wilson T. Ballard Co. reviewed the study and made the appropriate adjustments to the pro-rata share of road improvement contributions to be made to County escrow accounts designated for those improvements (see appendices 5&6).

“Likewise a proposed bypass would require similar study and analysis. The initial capital outlay for the bypass would be borne and secured by the developer. Since it is contemplated that this road should be an extension of Mussetter Rd., it is likewise expected that it would appropriately be incorporated into the County road system and built to County road standards. The annual maintenance costs would come from the operating budgets of both Town and County as reasonably determined”

Article VI Section B. of the MGE (pages 32-33) Financing Responsibilities states, “New development will pay its fair share of the costs associated with community facilities....” Add language stating “Similar to road infrastructure, upon appropriate study of projected school capacities, pupil yields attributable to annexed development and an establishment of a reasonable phasing schedule that provides currency of development with school facilities, the Town may enter an annexation agreement that requires the developer to pay additional school enhancement money above and beyond the County impact fees in order to facilitate the construction of new capacity.”

Article VI Section B. Financing Responsibilities of the MGE states, “New development will pay its fair share of the costs associated with community facilities....” Add language stating “Similar to road infrastructure, upon appropriate study of public safety needs the Town may set a reasonable phasing schedule that provides currency of development with public safety facilities. The Town may enter an annexation agreement that requires the developer to pay additional public safety enhancement money to provide for the construction or renovation of new facilities. For example, the Smith Cline annexation had provided for \$750,000 to go toward the construction of the NMVFD banquet hall.”

Article VI. Financing of Infrastructure Expansion, B. Financing Responsibilities (pages 32-33) should be further amplified by adding the following material –“**1. Financing Generally** – The Town’s operating revenues in FY’10 were \$399,000. The Town’s main sources of revenue were Real Property Taxes (\$127,000 or 32%), Income Tax (\$114,000 or 28%), Admissions and Amusement Taxes (\$68,000 or 17%) and Personal Property and other Business Taxes (\$30,763 or 8%) and Construction Permitting and other Development Fees (\$29,000 or 7%). The Town’s SHUR fees were cut \$29,000 or 7% of total revenue. County Tax Equity was \$12,000. However, the previous Board of County Commissioners had threatened to unilaterally withhold this funding.

“The Town’s operating expenses for FY’ 10 were \$286,000. The Town’s main expenses were Public Works (\$123,000 or 43%), Salaries, Financial and Legal Administration (\$90,000 or 31%), and Public Safety (\$18,000 or 5%).

“The Town’s Operating Budget is a cash budget. It does not account for amortization of capital expenses such as road, building, storm drainage and other capital item. For this reason, the annual budget report contains a discussion of these items pursuant to an in house fiscal impact of current development and infrastructure. The economic life of each item is estimated and broken into its annual amortization cost. For FY’ 10 this amount was estimated at \$47,000. Thus, the Town endeavors to ensure that its Unappropriated reserve is always set above this amount. Thus, ensures that has long term capital items come due for replacement; the money is ready and available to fund it. The Town’s CIP for FY’ 11 was \$829,000. The General Fund Provided \$670,000, Grants provided \$30,000 and loans \$129,000. The Town’s actual Unappropriated Reserve for FY’ 10 was \$113,000. It is anticipated that loan funding in the CIP will not be needed should the Town continue to out perform its budget by \$66,000 annually.

2. “Water Line Construction Financing

“During FY ’08 and FY ’09 the Town completed two major waterline projects with the County. The total cost of these projects was \$1.8 million. The Town funded \$900,000 from its General Fund and \$900,000 from developer Community Enhancement contributions. This demonstrates the importance of how developer contributions can be used to update facilities that are inadequate attributable to legacy issues.

“3. Future Non-Development Infrastructure Cost

“A. Streetscape

“Streetscape is a \$4 million dollar drainage, sidewalk repair, landscaping and Main St. repaving project. In exchange for these improvements, the Town must agree to take transfer of Main St. and its maintenance responsibilities. This could add as much as \$50,000 to annual amortization cost.

“The sidewalks in the Historic District are in poor condition at best. Many areas are likely impassable for those in wheelchairs and a tripping hazard for those who are not. The Town could not do this project without SHA funding. The Alternative would be to adopt an ordinance placing sidewalk repair and maintenance on property owners.

“Thus the Town must expand and diversify its tax base in order to find a permanent solution to this legacy inadequacy issue.”

Section VI. Financing of Infrastructure Expansion, B. Financing Responsibilities (pages 32-33) should be further amplified by adding the following material – **“4. New Development Financing, A. APFO Mitigation Funding vs. Municipal Annexation Funding** -- “The Town will use municipal annexation agreements and Developer’s Right’s and Responsibilities Agreement to both finance and achieve concurrency of infrastructure and public facilities with development.

“The Town prefers these tools for the purpose of financing infrastructure and achieving concurrency for the following reasons.

“APFO does not efficiently take into consideration legacy issues. These legacy issues create a complex set of equations that APFO alone can not solve. As such, APFO often resembles moratoria. It therefore does not always achieve its intended purpose of achieving concurrency of development and public facilities as well as providing affordable housing.⁷ As APFO restricts available land that’s highest and best use is for housing, the price available housing increases. As development patterns generally occur in concentric rings from previously developed areas, APFO restrictions pushes market demand to someone else’s community without solving the problem.⁸ In fact, it increases pressure on existing infrastructure such as roads as well as increasing commuter distances at the detriment to the environment.

“APFO has other weaknesses. Impact fees derived from the construction of new homes are collected after the development passes the APFO test. These fees can only keep you concurrent.

⁷ William C. Wantz, Esq., “A Comparison of Adequate Public Facilities Ordinances with Other Infrastructure Concurrency Techniques in Municipal Annexation”, December 2003, p. 2 (see Appendix 7).

⁸ Ibid., pp. 3-7.

They can not solve the legacy issues. Further, Judge Cathell in *Steel vs. Cape* observed that the County can not disproportionately place the burden of adequate public schools upon the developer. More concerning is the questionable validity of APFO waiver payments.⁹ In *Halle Development Co. vs. Anne Arundel County* the Court intimated that these fees not only resembled illegal taxes but questioned the impropriety of allowing developers to buy land use accommodations. Essentially, those with money can buy extraordinary land use accommodations while those who can not must wait.¹⁰

“There are other concurrency tools that should be considered. They include, but not limited to, municipal annexation agreements, DRRA’s, WSAA’s and Joint Planning Agreements. These tools may be more appropriate for under bounded jurisdictions such as New Market. We have very little undeveloped land to apply an APFO. Annexation presents an opportunity to create a contractual relationship with a municipality premised on crossing the annexation threshold. Municipal annexation agreements provide concurrency by contract. They have several advantages over concurrency by regulation or APFO. First, they are judicially proven such as in *Mayor & Council of Rockville vs. Rylins*. Secondly, they are flexible and thus not one size fits all as is the County imposed APFO.¹¹ Third, they allow for the payment in advance for public facilities. These payments are financed through the 30 year mortgage market at the prevailing rate of interest. Thus local government piggy backs on the mortgage industry. Lastly, municipal annexation agreements are binding upon the developer and its successors.

“The County controls our utilities through a WSAA. Clearly, as recognized by Commissioner Gardner in her “Open Letter to The Residents of New Market”, no development can occur without utilities.¹²

“The Town recognizes that concurrency can only be reached incrementally as we overcome legacy issues. Only then can we provide a model to achieve the goals of Smart Growth, concurrency of public facilities and affordable housing.

“Using the identified concurrency tools we can create a model that uses the County APFO to drive development to currently developed areas such as municipalities. The municipalities negotiate an annexation agreement with the developer that arranges for the legal payment of money for needed public facilities. Since the WSAA only allows extension of services to the municipality to serve the annexed property after the annexation is final. The annexation agreement must meet the approval of the BOCC before they will extend services. No construction phasing can be set nor any development occur until after the annexation is final, the WSAA amended and a phasing schedule set in a subsequent DRRA executed concurrently with the WSAA amendment.

“Using this model as monumented in a Joint Planning Agreement ensures that the County and municipalities work cooperatively, not competitively. The through such an agreement the County can not develop property contiguous to the municipality without annexation, but neither can the municipality develop the property without satisfying the County. This model offers a collaborative method of accomplishing our mutual goals that minimizes the need for acrimony.

⁹ Ibid., pp. 8-9.

¹⁰ Ibid., pp. 13-14.

¹¹ Ibid., pp. 14-15.

¹² Commissioners Gray, Thompson, Gardner and Hagan, “Open Letter to the Residents of New Market”, December 13, 2006, p. 2 (See Appendix 8).

“B. Countywide School Construction Mitigation Fee

“The recitals to this supplement cite the new Board of County Commissioners desire to enter Joint Planning with the Town. The County has asked the Town to consider uniform countywide school construction fee. This proposes to provide for additional developer funding above and beyond the current impact fee for any school or combination of schools that do not pass the County APFO. This funding could provide for 115% of the actual per dwelling student impact. The Town is willing to investigate adopting this fee as part of a Joint Annexation Agreement. The Town would not adopt an APFO for the reasons stated above. However, it would consider setting a reasonable threshold for school capacity. The Town would then have a tool that is stronger than APFO it would have a concurrency agreement with the Town that is a legally binding contract.”

Requirement 7. Consideration of rural buffers and transition areas;

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Rural Buffers/Transition Areas – Pros/Cons, Impacts of growth on sensitive areas, and Identify areas that may impede development (steep slopes, flood plain...)

1. Rural Buffers/Transition Areas

Regarding rural buffers and transition areas, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article I. Introduction

Section B. The Town’s Visions (Page 5) states that a fundamental vision is that “Responsible changes in land use patterns will result in health, safety, and environmental protection and enhancement, especially when streams and their buffers are restored, forested areas are connected, and other sensitive areas are maintained or restored to their natural state.”

Article II. The Growth of New Market

Section C. Issues (Page 9) states that “...all development should be environmentally sensitive and that the natural character of land to be developed should be maintained. This includes development techniques commonly known as conservation design, and, at the lot level, environmental site design. Streams and wetlands are among the most sensitive features. They must have wide, protective natural buffers, and development must be designed not only to minimize impacts to these features, but also to restore natural functions. Environmentally sensitive development also means creating pedestrian-friendly streets so that people can walk to work, shop, or play.

“The Town does not want garages to be the most prominent feature of houses, nor does it want streets that are overly wide and huge parking lots that are unrelieved seas of asphalt. Our streets will be designed to be shared by all potential users and be pedestrian-friendly so that people can walk to work, shop, or play. Every development must provide significant, usable open space as an integral part of projects and neighborhoods – not afterthoughts. This also means the Town will work to improve existing open space to create green corridors of connected open space.”

Article V. Protection of Sensitive Areas in and Near New Market (Pages 30-31) contains recommendations for additional land use designations to address open space issues.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article III. Visions, Strategies, and Actions

The Second Vision

Standards, Guidelines, and Administrative Measures (Page 42-44) describes specific actions to ensure adequate open space.

The Third Vision

Overall Strategies and Land Use Policies (Pages 45-46) identifies land use policies to protect land for open space, agriculture, and conservation.

2. Impacts of growth on sensitive areas

Regarding the impacts of growth on sensitive areas, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article V. Protection of Sensitive Areas in and Near New Market (Pages 29-32) contains specific policies and recommendations for the protection of sensitive areas.

The New Market Water Resources Element Addendum contains the following pertinent information and analysis:

Quality of Effluent/Impact to Water Resources (Pages 10-13) analyzes the quality of effluent impact to water resources.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article II. The Master Planning Challenge

Natural Resources: Opportunities and Constraints (Pages 7-9) contain descriptions of the issues surrounding regional geology and soils, floodplains, wetlands, agriculture, and forestry.

The Fourth Vision

Overall Strategies #1 & #2 (Page 48) identifies strategies to protect the Town's natural water supply and encourage stewardship of the Chesapeake Bay and its tributary lands and to institute zoning practices which protect and enhance the environment.

Standards, Guidelines, and Administrative Measures (Pages 49-50) identifies specific actions to protect floodplains and improve environmental awareness and monitoring.

3. Identify areas that may impede development (steep slopes, flood plain...)

Regarding areas that may impede development, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Article V. Protection of Sensitive Areas in and Near New Market (Pages 29-32) identify areas that may impede development.

The 2005 New Market Master Plan contains the following pertinent information and analysis:

Article II. The Master Planning Challenge

Natural Resources: Opportunities and Constraints (Pages 5-7) contains description of the issues surrounding regional geology and soils, floodplains, wetlands, agriculture, and forestry.

Requirement 8. Consideration of any burden on services and infrastructure for which the municipal corporation would be responsible for development in areas proximate to and outside the proposed municipal growth area;

Article IV. Growth's Impact on Public Services and Facilities

Section I. Infrastructure Summary (Page 28) states that "No burdens on New Market-provided services and infrastructure lying outside the preferred Annexation Area can be identified at this time."

Requirement 9. Protection of sensitive areas as defined in Article 66B, §1.00(j) of the Code, that could be impacted by development planned within the proposed municipal growth areas.

The Municipal Growth Element Checklist prepared by the Maryland Department of Planning and based on Models and Guidelines, Volume 25, Writing the Municipal Growth Element to the Comprehensive Plan suggests consideration of the following items: Rural Buffers/Transition Areas, Impacts of growth on sensitive areas, and Identify areas that may impede development (steep slopes, flood plain...)

1. Rural Buffers/Transition Areas

Regarding rural buffers and transition areas, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Section B. The Town's Visions (Page 5) states that a fundamental vision is that "Responsible changes in land use patterns will result in health, safety, and environmental protection and enhancement, especially when streams and their buffers are restored, forested areas are connected, and other sensitive areas are maintained or restored to their natural state."

Section C. Issues (Page 9) states that "...all development should be environmentally sensitive and that the natural character of land to be developed should be maintained. This includes development techniques commonly known as conservation design, and, at the lot level, environmental site design. Streams and wetlands are among the most sensitive features. They must have wide, protective natural buffers, and development

must be designed not only to minimize impacts to these features, but also to restore natural functions. Environmentally sensitive development also means creating pedestrian-friendly streets so that people can walk to work, shop, or play.

“The Town does not want garages to be the most prominent feature of houses, nor does it want streets that are overly wide and huge parking lots that are unrelieved seas of asphalt. Our streets will be designed to be shared by all potential users and be pedestrian-friendly so that people can walk to work, shop, or play. Every development must provide significant, usable open space as an integral part of projects and neighborhoods – not afterthoughts. This also means the Town will work to improve existing open space to create green corridors of connected open space.”

Section V. Protection of Sensitive Areas in and Near New Market (Pages 30-31) contains recommendations for additional land use designations to address open space issues.

The **2005 New Market Master Plan** contains the following pertinent information and analysis:

Standards, Guidelines, and Administrative Measures (Page 39-41) describes specific actions to ensure adequate open space.

Overall Strategies and Land Use Policies (Pages 45-46) identifies land use policies to protect land for open space, agriculture, and conservation.

2. Impacts of growth on sensitive areas

Regarding the impacts of growth on sensitive areas, the **New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Section V. Protection of Sensitive Areas in and Near New Market (Pages 29-32) contains specific policies and recommendations for the protection of sensitive areas.

The **New Market Water Resources Element Addendum** contains the following pertinent information and analysis:

Quality of Effluent/Impact to Water Resources (Pages 10-13) analyzes the quality of effluent impact to water resources.

The **2005 New Market Master Plan** contains the following pertinent information and analysis:

Natural Resources: Opportunities and Constraints (Pages 5-7) contains description of the issues surrounding regional geology and soils, floodplains, wetlands, agriculture, and forestry.

Overall Strategies #1 & #2 (Page 45) identifies strategies to protect the Town’s natural water supply and encourage stewardship of the Chesapeake Bay and its tributary lands and to institute zoning practices which protect and enhance the environment.

Standards, Guidelines, and Administrative Measures (Pages 46-47) identifies specific actions to protect floodplains and improve environmental awareness and monitoring.

3. Identify areas that may impede development (steep slopes, flood plain...)

Regarding areas that may impede development, **the New Market Municipal Growth Element Addendum** contains the following pertinent information and analysis:

Section V. Protection of Sensitive Areas in and Near New Market (Pages 29-32) identify areas that may impede development.

The **2005 New Market Master Plan** contains the following pertinent information and analysis:

Natural Resources: Opportunities and Constraints (Pages 5-7) contains description of the issues surrounding regional geology and soils, floodplains, wetlands, agriculture, and forestry.

New supplementary information regarding the sensitive area requirement is contained in the attached maps provided by Frederick County. The three maps show the location of steep slopes, forest cover, and floodplains, wetlands, and streams in the vicinity of New Market.

(Maps of slopes, forest cover & floodplains)

APPENDICES

- 1. Draft Town of New Market Development Capacity Analysis, MDP, November 2009**
- 2. Food Lion Annexation Petition**
- 3. Wilson T. Ballard Traffic Summary**
- 4. The Wilson T. Ballard Company MDP-MDOT Rebuttal Document on the Town of New Market Draft Municipal Growth Element**
- 5. Food Lion Annexation Traffic Study, The Traffic Group, April 13, 2010**
- 6. Food Lion Annexation Traffic Study Review, The Wilson T. Ballard Company, April 28, 2010**
- 7. A Comparison of Adequate Public Facilities Ordinances with Other Infrastructure Concurrency Techniques in Municipal Annexation**
- 8. Open Letter to the Residents of New Market**

MAPS

- 1. Oakdale Feeder Pattern**
- 2. Linganore Feeder Pattern**
- 3. DFRS New Market Station 15 Response Time Map**
- 4. Royal Oaks/Isaac Russell Connection**
- 5. Mussetter Rd. Extended**